

preliminary matter, Applicant thanks Examiner Saint-Surin for his courtesies extended to Applicant's representative during the June 29, 1999 telephonic interview.

Claims 1-31 stand rejected under 35 U.S.C. § 251 as being based on a defective oath or declaration. Claims 29-31 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In addition, claims 26-31 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 4,91,172 to Winebaum et al. [hereinafter "Winebaum"].

Claims 1-31 are presently pending in this application for consideration. By this amendment, claims 29-31 have been amended for clarity. Applicant submits herewith a Supplemental Declaration.

Applicant respectfully submits that claims 26-31 are patentably distinguishable over the cited references as required by § 102. Applicant further submits that none of the cited references, whether considered alone or in combination, discloses a case of a size of and shape corresponding to the size and shape of a credit card that can be inserted into a computer. Thus, these claims are allowable over the cited references. This distinction will be further described in the following sections.

#### **REJECTION UNDER 35 U.S.C. § 251**

Claims 1-31 stand rejected under 35 U.S.C. § 251 as being based on a defective oath or declaration. The Examiner specifies two alleged defects: (1) the declaration fails to identify at least one error which is relied upon to support the reissue application, and (2) the declaration fails to include the language, "Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant." (Office Action, pp. 2-3).

Applicant submits herewith a Supplemental Declaration stating at least one error and the particular language specified by the Examiner. Thus, this declaration is proper. Accordingly, Applicant respectfully submits that this rejection should be withdrawn.

### **THE CLAIMS ARE IN PROPER FORM**

Claims 29-31 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully submits that the claims have been amended according to the Examiner's helpful suggestions. Therefore, it is respectfully submitted that the claims are now in proper form. Reconsideration and withdrawal of the rejection is respectfully requested.

### **ALLOWABLE SUBJECT MATTER**

Applicant gratefully acknowledges the Examiner's indication that claims 1-25 are allowable over the cited references. Applicants however, submit that claims 26-31 are also allowed over the cited references for the reasons set forth below.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 26-31 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over Winebaum. The Examiner alleges that Winebaum discloses an electronic card sized direct dialing device corresponding to the size and shape of a credit card to be inserted into computer. (Office Action, p. 4). Applicant respectfully submits that Winebaum does not discloses each and every element of the invention of the above-identified application as recited in independent claims 26 and 27.

Specifically, Winebaum discloses an automatic dialer which may be constructed as an insert for, or an attachment to, various media such as magazines, books, direct mail advertising, newspapers and the like. (Winebaum, abstract, lines 1-7). The automatic dialer mechanism is incorporated in a substrate or card (10) and the automatic dialer includes a single chip microprocessor based DTMF tone generator (20) with a microprocessor (32). (Id. at col. 5, lines 50-55). Contrary to the Examiner's assertion, it is microprocessor (32) that is inserted into the card shaped automatic dialer and not the card shaped dialer inserted into the microprocessor. (Office Action, p. 4). Thus, Winebaum fails to disclose a dialing device the size and shape of a credit card to be inserted into computer. There simply no teaching of inserting the automatic dialer into a computer. As stated above, Winebaum merely discloses placing the automatic dialer into various media such as books and magazines.

Therefore, since Winebaum fails to disclose each and every claimed feature of independent claims 26 and 27, Winebaum fails to anticipate or render obvious the invention defined by these claims. Thus, these claims are allowable. With respect to claims dependent therefrom, namely claims 28-31, these claims are allowable by virtue of their dependence from allowable claim 27 and for containing other patentable features. Withdrawal and reconsideration of the rejection under 35 U.S.C. § 102(e) is respectfully requested.

### Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the pending rejections. A Notice of Allowance is earnestly solicited.

The Office is hereby authorized to charge any fees or credit any overpayments arising from this communication to Kenyon & Kenyon's Deposit Account No. 11-0600.

Applicant invites the Examiner to contact the undersigned to discuss any matter concerning this application.

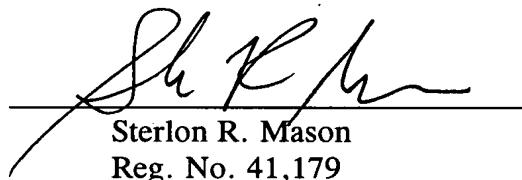
Respectfully submitted,

KENYON & KENYON

Date

July 6, 1999

By:

  
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